



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,623	11/26/2003	Girish T. Dalal	201TR032	7109

37535 7590 02/07/2007  
LEGAL DEPARTMENT  
NOVEON, INC.  
9911 BRECKSVILLE ROAD  
CLEVELAND, OH 44141-3247

EXAMINER
----------

PENG, KUO LIANG

ART UNIT	PAPER NUMBER
----------	--------------

1712

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

4

# Office Action Summary

Application No.

10/722,623

Applicant(s)

DALAL ET AL.

Examiner

Kuo-Liang Peng

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11/28/06 RCE.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 31, 2006 has been entered. Claim 1 is amended. Claims 6-18 are withdrawn. Now, Claims 1-5 are pending for consideration.

2. It is noted that there is a typographical error in Applicants Remarks (page 6, 2<sup>nd</sup> paragraph, 1<sup>st</sup> line), "Claims 1-6 are pending" should be "Claims 1-5 are pending".

3. Specification objection(s) in the previous Office Action (Paper No. 052706) is/are removed.

4. Claim rejection(s) under 35 USC 112 in paragraph 8 of the previous Office Action (Paper No. 052706) is/are removed.

Art Unit: 1712

5. The text of those sections of Title 35, U.S. code not included in this action can be found in prior Office Action(s).

***Claim Rejections - 35 USC § 112***

6. Rejection of Claim 1-5 under 35 USC 112, second paragraph, is maintained because the rejection is adequately set forth in paragraph 7 of Paper No. 052706.

For Applicants' argument (Remarks, page 6, 2<sup>nd</sup> paragraph), Applicants state, "The phrase makes it clear that not only is the mean particle size small but also there is an absence of a large amount of **larger** particle." (Emphasis added) Note that the term "larger particle" is indefinite because, as mentioned in the previous Office action, it is not clear as to what "90% by weight of said zeolite particles are of a particle diameter **below the range of** from about 0.30 to about 3 microns" refers to. (Emphasis added)

7. Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Examiner is not able to find a basis of “90% by weight of said zeolite particles are of a particle diameter **below the range** of from about 0.30 to about 3 microns”. (Emphasis added)

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dettermann (US 5 912 277) as evidenced by Gray (US 4 123 376) and optionally Eshuis (US 5 635 588).

Dettermann discloses a polymer blend comprising a CPVC, an impact modifier, a stabilizer, etc. (col. 3, lines 16-29) The intrinsic viscosity and chlorine content are described in col. 4, lines 51 to col. 5, line 34. The amount of the stabilizer is described in col. 6, lines 48-65. A co-stabilizer of an alkali metal aluminosilicate zeolite can be used in an amount described in col. 6, line 66 to col.

Art Unit: 1712

7, line 35. The impact modifier can be a silicone rubber/acrylic copolymers, etc.

(col. 7, lines 35-49 and col. 8, line 32 to col. 10, line 5) The typical amounts of the ingredients are also exemplified in Examples. Dettermann also teaches the use of a zeolite 4A. (col. 7, lines 1-34) Note that Gray teaches that zeolite 4A contains about 20% of water (Example 11). Dettermann is silent on the specific zeolite characteristics such as mean particle size and particle size distribution. However, Dettermann teaches the use of the blend in an extrusion process. (col. 12, line 46 to col. 13, line 7) Furthermore, the particle size and particle size distribution will affect the extrusion processability. In other words, the particle size and particle size distribution are Result-Effective variable. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize a zeolite having whatever particle size and particle size distribution through routine experimentation in order to afford a blend having a desired processability.

Especially, Applicants do not show the criticality of the claimed characteristics of the zeolite. See MPEP 2144.05 (II). Eshuis teaches that a typical zeolite has a composition described in col. 1, lines 62-67. Furthermore, Dettermann teaches the use of CBV 10A zeolite as the aluminosilicate zeolite. (col. 6, line 66 to col. 7, line 34) Eshuis teaches that the CBV 10A zeolite can have a composition described in col. 4, lines 4-12.

Art Unit: 1712

For Applicants argument (Remarks, page 7, 2<sup>nd</sup> to 5<sup>th</sup> paragraphs), Examiner disagrees because of the indefiniteness and new matter issues in the claim language, supra, and lack of unexpected results resulting from the use of the claimed zeolite. Although Applicants allege the indication of the unexpected results in the specification. However, Examiner is not able to find a basis for this. Applicants' examples appear to merely show the criticality of the presence of a zeolite.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 1712

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

klp  
February 3, 2007



Kuo-Liang Peng  
Primary Examiner  
Art Unit 1712